

F. Michael Daily, Jr., Esquire
NJ Attorney Id Number 011151974
F. MICHAEL DAILY, JR., LLC
216 Haddon Avenue • Sentry Office Plaza
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Attorney for the Petitioner

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
(NEWARK VICINAGE)

TINA RENNA	:	
	:	Docket No.
	:	2:11-3328 (KM) (MAH)
Plaintiff,	:	
vs.	:	DECLARATION OF F. MICHAEL
	:	DAILY, JR., IN
	:	SUPPORT OF APPLICATION FOR
	:	FEES AND COSTS
THE COUNTY OF UNION, NEW:		
JERSEY		
Defendant.:		

F. Michael Daily, Jr., makes the following declaration:

1. This declaration is filed in support of the Plaintiff's claim for Attorney's Fees and Costs and is to demonstrate the reasonableness and basis for the hourly rate of compensation requested in respect to this declarant along with the reasonableness of the total number of hours incurred and claimed.
2. On May 26, 2011, I was retained by the Rutherford Institute

(hereafter "TRI") on an emergent basis to file the complaint in this matter. This retention was with the consent of the Plaintiff and her counsel, Walter Luers, Esq., and was necessary because Mr. Luers was not registered as an ECF filer.

3. Later after the complaint was filed it was agreed by TRI, Mr. Luers and Tina Renna that I should remain as co-counsel in this case due to my civil rights and general litigation experience in the Federal Courts.
4. As a result I have continuously afforded services to the Plaintiff primarily in a supervisory capacity.
5. My fee arrangements with the Plaintiff were on a *pro bono* basis in the same manner as set forth by Mr. McKusick in his Declaration in Support of Fees.
6. I received a Bachelor of Arts degree from Syracuse University, Syracuse, New York in 1971 and a J.D.. from Rutgers, The State University of New Jersey School of Law - Camden, Camden, New Jersey in 1974.
7. I was admitted to the practice of law in New Jersey in 1974 and I have practiced in this State on a full time basis for almost 40 years.
8. I also have been admitted to practice before the U.S. District Court, District of New Jersey, U.S. Court of Appeals for the 3rd Circuit, The U.S. Court of Appeals for the 6th Circuit and

the U.S. Supreme Court.

9. For the bars and courts to which I have been admitted, I am in good standing, and there are no grievance proceedings or any other disciplinary actions pending against me. In addition, I have never been held in contempt of court, censured, disbarred or suspended by any court.
10. I was originally employed as an associate and later partner by the firm of Montano, Summers, Mullen and Manual, PA., (formerly Kisselman, Deighnan, Montano, and Summers) of Cherry Hill, New Jersey.
11. While employed by that firm I tried to a conclusion an average of 8 to 10 jury cases per year in state and federal court.
12. While employed by that firm I was attorney of record and argued the published cases of *Weathers v. Hartford Ins. Co.*, 77 NJ 228 (NJ Supreme Court 1977) and *Still v. Ohio Cas. Ins. Co.*, 189 NJ Super 195 (App. Div. 1983).
13. After leaving that firm in 1986 I eventually moved my practice into the areas of general litigation, appeals, civil rights and employment law including the representation of federal employees before the EEOC and the MSPB.
14. In the area of general litigation, I was the attorney of record and argued the cases of *Campione v. Adamar*, 155 NJ 245 (NJ Supreme Court 1998) and *Cox v. RKA*, 164 NJ 487 (NJ Supreme Court 2000).

15. I have also handled numerous Federal and state cases involving employment discrimination and civil rights including the following published cases: *Ben Rich v. City of Vineland*, 126 F3d. 155 (3rd Cir. 1998); *Shelton v. University of Medicine and Dentistry*, 223 F3rd 220 (3rd Cir. 2000); *CH v. Oliva*, 226 F.3d 198 (3rd Cir. 2000) (*En Banc*), *Certiorari Denied* 533 US. 9 (2001); *C.N. v. Ridgewood*, 430 F.3d 159 (3 Cir. 2005); and *Streater v. City Camden Fire Department*, 567 F. Supp.2d 667 (D. NJ. 2008).
16. In addition, I am currently awaiting the scheduling of oral argument before the New Jersey Supreme Court in the matter of *State v Pomianek*, 429 N.J. Super 339 (App. Div. 2013), *Certification Granted* 216 N.J. 359, 363 (2013) in which I obtained a reversal of a bias crimes conviction on First Amendment grounds.
17. In connection with this case I have rendered the services set forth in the itemized bill attached hereto as Exhibit A. I have reviewed the time and charges set forth in this bill and the time spent was reasonable and necessary under the circumstances.
18. From my own experience, investigation and information, I am familiar with the hourly billing rates of attorneys with skill and experience in the area of civil rights and general litigation in the Northern New Jersey legal market. Given my

forty years in practice, including my broad litigation experience and my special expertise in civil rights issues, my billing rate of \$400.00 per hour is reasonable in the aforesaid legal market.

19. I have expended 22.3 hours on behalf of the Plaintiff, prosecuting this case and based upon the foregoing the reasonable value of this work is the sum of \$8,920.00

20. In addition to the foregoing, in prosecuting this case, my office has incurred the costs also set forth in Exhibit A, which expenses total the sum of \$100.65 and which expenses were both reasonable and necessary in order to prosecute this matter.

Under penalties of perjury, I hereby declare the foregoing to be true and correct.

F. MICHAEL DAILY, JR., LLC
Attorney for the Plaintiff

BY: s/F. Michael Daily, Jr.
F. Michael Daily, Jr.

Dated: June 19, 2014.

EXHIBIT A

F. Michael Daily Jr, LLC
 216 Haddon Avenue
 Sentry Office Plaza Suite 106
 Westmont, NJ 08108

Invoice submitted to:
 Doug McKusick
 The Rutherford Institute
 P.O. Box 7482
 Charlottesville VA 22906

June 18, 2014

In Reference To: F-2287-11 Tina Renna v. County of Union

Invoice #10394

Professional Services

			<u>Hrs/Rate</u>	<u>Amount</u>
5/26/2011	FMD	Receipt and review of emergent matter from TRI to be filed in New Jersey, email replies, receipt of proposed complaint and open new file.	1.50 400.00/hr	600.00
	FMD	Review of proposed complaint drafted by TRI, quick legal research of trademark statute, and determination that allegations have factual and legal support; filing of complaint via ECF.	1.50 400.00/hr	600.00
6/10/2011	FMD	Receipt and review of summons and forwarding it via TRI to Walt Luers for service.	0.20 400.00/hr	80.00
6/24/2011	FMD	Receipt and review of proof of service and filing same with court.	0.20 400.00/hr	80.00
	FMD	Emails with TRI regarding FMD remaining in case.	0.20 400.00/hr	80.00
6/27/2011	FMD	Forwarding TRI and WL filed copy of return of service.	0.10 400.00/hr	40.00
6/30/2011	FMD	Receipt and review of application of County to extend time to answer, forward same to TRI and WL.	0.20 400.00/hr	80.00
7/15/2011	FMD	Receipt and review of answer filed by County and forwarding to WL.	0.30 400.00/hr	120.00
10/28/2011	FMD	Receipt and review of order for R. 16 conference and forwarding same.	0.30 400.00/hr	120.00

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		<u>Hrs/Rate</u>	<u>Amount</u>
11/14/2011	FMD Review of proposed joint discovery plan and discuss same with WL.	0.20 400.00/hr	80.00
11/15/2011	FMD Attendance at R. 16 Conference in Newark.	5.00 400.00/hr	2,000.00
12/30/2011	FMD Review of R. 26 Disclosures and documents.	0.70 400.00/hr	280.00
1/18/2012	FMD Attendance at status conference via telephone.	0.30 400.00/hr	120.00
2/6/2012	FMD Attendance at settlement conference in Newark.	4.00 400.00/hr	1,600.00
8/1/2012	FMD Receipt and review of order transferring matter to Judge McNulty.	0.10 400.00/hr	40.00
7/25/2013	FMD Receipt and review of docket order requesting status submission.	0.10 400.00/hr	40.00
8/1/2013	FMD Receipt and review of joint status memo.	0.10 400.00/hr	40.00
8/13/2013	FMD Receipt and review of scheduling order.	0.10 400.00/hr	40.00
	FMD Receipt and review of voluminous discovery documents from WL.	2.50 400.00/hr	1,000.00
10/10/2013	FMD Receipt and review of draft of motion Motion for SJ by TRI and reply with comments.	1.00 400.00/hr	400.00
10/11/2013	FMD Receipt and review of Motion for SJ for client.	0.30 400.00/hr	120.00
10/14/2013	FMD Receipt and review of Motion for SJ by County.	0.60 400.00/hr	240.00
10/31/2013	FMD Receipt and review of opposition to motion by county and client's opposition.	0.50 400.00/hr	200.00
5/27/2014	FMD Preparation of email to WL advising cannot appear for oral argument due to deposition in other matter.	0.20 400.00/hr	80.00
5/29/2014	FMD Receipt and review of opinion and email to WL and TRI	0.40 400.00/hr	160.00
6/10/2014	FMD Preparation of email forwarding to WL and TRI suggested pleadings for fee application.	0.70 400.00/hr	280.00

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<u>Hrs/Rate</u>	<u>Amount</u>
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6/10/2014 FMD Preparation of Cert of Fees of FMD.

1.00	400.00
400.00/hr	

For professional services rendered

22.30	\$8,920.00
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Additional Charges :

2/6/2012 Mileage to Newark and return

83.00

Parking

11.00

Tolls - NJ Turnpike

6.65

Total costs

\$100.65

Total amount of this bill

\$9,020.65

Previous balance

\$450.65

1/5/2012 Payment by TRI for filing fee and mileage, parking & tols on 11/15 - Thank You

(\$450.65)

Total payments and adjustments

(\$450.65)

Balance due

\$9,020.65
